

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: DIGITEK
PRODUCTS LIABILITY LITIGATION

MDL NO. 2:08-md-1968

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER #70
(Scheduling Order for Remaining Cases)

Pursuant to PTO # 67 a mandatory docket hearing was held on November 17, 2010. Counsel for all plaintiffs remaining in the MDL after the Settlement Agreement opt-out process were ordered to appear in person. The purpose of the hearing was to address all matters related to continuing prosecution of the remaining cases. During the hearing, the parties conferred and reached agreement on a proposed schedule of case events for the remaining cases. The court approved the proposed schedule. Accordingly, the stay issued in PTO #62 and continued in PTO #67 is hereby **LIFTED** and the remaining cases¹ shall proceed under the following schedule:

1. A Plaintiff Fact Sheet for cases filed after September 1, 2010 shall be due 14 days from the date of this order if not yet filed pursuant to PTO #16.

¹ Due to circumstances in the particular case, the court granted leave for plaintiffs' counsel in Kathy McCornack, et al. v. Actavis Totowa LLC et al. (2:09-cv-00671) to confer with defendants' counsel and reach agreement on an individual scheduling order for that case. The parties shall submit the proposed scheduling order to the court for approval no later than November 26, 2010.

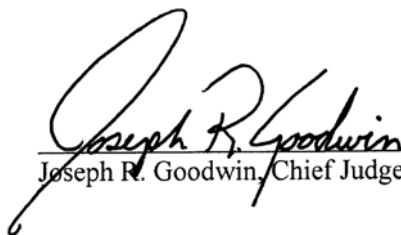
2. Defendants shall serve their general liability expert reports **no later than December 15, 2010.**
3. The parties shall complete the remaining plaintiffs' general liability expert witness depositions **no later than January 31, 2011.**
4. The parties shall complete depositions of defendants' general liability experts **between January 15, 2011 and March 15, 2011.**
5. The parties shall complete basic fact discovery, including depositions, for all cases **no later than April 1, 2011.**
6. Plaintiffs shall serve their case-specific causation expert reports **no later than April 15, 2011.**
7. Defendants shall serve their case-specific causation expert reports **no later than May 15, 2011.**
8. Plaintiffs shall serve their case-specific causation rebuttal expert reports **no later than May 30, 2011.**
9. The parties shall complete depositions of plaintiffs' case-specific experts **no later than June 1, 2011.**
10. The parties shall complete depositions of defendants' case-specific experts **no later than July 1, 2011.**
11. All dispositive motions or those raising *Daubert/Frye* issues shall be filed **no later than August 3, 2011**, with response briefing due **no later than August 17, 2011**, and reply briefing due **no later than September 1, 2011.**

12. A hearing will be held on **September 14-15, 2011**, for disposition of all dispositive and *Daubert /Frye* motions.
13. The court will schedule dates for a final global settlement conference, a final pretrial conference and trial start dates following decisions on *Daubert/Frye* and dispositive motions.
14. The case of *Scottie Vega et al. v. Actavis Totowa, LLC, et al*, 2:09-cv-00768 will be tried first.

Pending is defendants' motion to lift the stay imposed by PTO #62 for specific consideration of defendants' motion for entry of a scheduling order [Dckt. 385]. Having resolved in the PTO the matter raised in the motion, it is **DENIED** as moot.

The court **DIRECTS** the Clerk to file a copy of this order in 2:08-md-1968 which shall apply to each member Digitek-related case previously transferred to, removed to, or filed in the is district, which includes counsel in all member cases up to and including civil action number 2:10-cv-01309. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsd.uscourts.gov.

ENTER: November 19, 2010


Joseph R. Goodwin, Chief Judge